



PUBLIC NOTICE

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DA 03-4053
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DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF THE CONRAD, ELDORA, AND STEAMBOAT ROCK (IOWA) EXCHANGES

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 03-249

HEART OF IOWA COMMUNICATIONS COOPERATIVE AND IOWA TELECOMMUNICATIONS SERVICES, INC., d/b/a IOWA TELECOM SEEK WAIVER OF THE STUDY AREA BOUNDARY FREEZE AS CODIFIED IN PART 36 AND WAIVERS OF SECTIONS 69.3(e)(11) AND 69.605(c) OF THE COMMISSION'S RULES

PLEADING CYCLE ESTABLISHED

CC Docket No. 96-45

On November 26, 2003, Iowa Telecommunications Services, Inc. (Iowa Telecom) and Heart of Iowa Communications Cooperative (Heart of Iowa) (collectively, the Applicants) filed an application, pursuant to section 63.04 of the Commission's rules, to transfer control of the rural Conrad, Eldora, and Steamboat Rock exchanges (Exchanges) from Iowa Telecom to Heart of Iowa, a total of 815 lines (Transfer of Control Application)¹ and a joint petition for waiver of the boundary freeze as codified in the Appendix-Glossary of Part 36 of the Commission's rules (Study Area Waiver).² Heart of Iowa also seeks a waiver of section 69.3(e)(11) of the Commission's rules regarding participation in the National Exchange Carrier Association (NECA) carrier common line tariff and a waiver of the definition of "average schedule company" in section 69.605(c) of the Commission's rules (Part 69 Waivers).³

¹ 47 C.F.R. § 63.04; *see* 47 U.S.C. § 214.

² 47 C.F.R. § 36, App. (defining "study area").

³ 47 C.F.R. §§ 69.3(e)(11) and 69.605(c).

Transfer of Control Application: Although the proposed transaction involves only the transfer of the local exchange assets of an incumbent local exchange carrier by means other than an acquisition of corporate control, this application is not subject to streamlined treatment.⁴ In this instance, non-streamlined treatment is appropriate because the Applicants do not request streamlined treatment and the Applicants have filed associated waiver requests that are not likely to be resolved in the 31-day period provided for approval under the Commission's streamlining rules.

Iowa Telecom, a corporation, is an independent incumbent local exchange carrier (LEC) headquartered in Newton, Iowa. Iowa Network Services, Inc. owns 57 percent and FS Private Investments III, LLC owns 28 percent of the equity in Iowa Telecom. Iowa Telecom currently provides local exchange and exchange access service, and dial-up and high-speed Internet services to residential and business customers in approximately 300 exchanges widely distributed throughout the State of Iowa, comprising a total of approximately 257,000 access lines.

Heart of Iowa, a cooperative, is headquartered in Union, Iowa. It provides incumbent local exchange and exchange access services to residential and business customers (approximately 2,487 access lines total) in a cluster of small rural north-central Iowa communities: Albion, Ferguson, Green Mountain, Haverhill, Liscomb, New Providence, Union, and Whitten. Heart of Iowa offers intraLATA and interLATA (domestic and international) toll services, a range of vertical voice services, and dialup and high-speed digital subscriber line (DSL) Internet access services to customers in its service areas. Heart of Iowa currently serves the Exchanges, which adjoin its incumbent service area, as a competitive LEC. Of the 3,559 total lines in the Exchanges, Heart of Iowa already serves 2,744, or 77 percent.

The Applicants have entered into an Asset Purchase Agreement in which Iowa Telecom has agreed to transfer its customer base and assets in the Exchanges to Heart of Iowa. After consummation, Heart of Iowa will continue to offer the services currently offered to Iowa Telecom customers in these Exchanges.

Applicants state that the proposed transaction is in the public interest because it would allow Heart of Iowa to become the incumbent provider of local exchange service in these exchanges. Specifically, they contend that the proposed transaction would benefit consumers in the Exchanges because affected customers would be able to purchase from Heart of Iowa high-speed Internet access over DSL, a service it provides to its competitive LEC customers but which Iowa Telecom has not yet provided in the Exchanges. Further, they assert that the transaction would provide affected customers with new services from a locally based carrier specializing in meeting the communications needs of the few rural communities it serves.

⁴ See 47 C.F.R. § 63.03(b)(1)(iii) (explaining that transactions involving "only the transfer of the local exchange assets of an incumbent local exchange carrier by means other than an acquisition of corporate control" are presumed to be subject to streamlined procedures).

Moreover, Applicants state that the proposed transaction would strengthen Heart of Iowa by allowing it to achieve new economies of scale, a more cohesive and rational service area, and administratively simpler operations. Further, Applicants contend that the proposed transaction would permit Iowa Telecom to focus greater resources and facilities on its remaining exchanges. As a result, Iowa Telecom would be better positioned to provide new services (*i.e.*, broadband) to its customers on a shorter timetable in its rural exchanges. Accordingly, Applicants argue that the proposed transaction would serve the public interest, convenience, and necessity by strengthening two small providers and by directly benefiting the affected consumers.

Study Area Waiver and Part 69 Waivers: The requested study area waiver would permit Iowa Telecom to remove from its study area the Conrad, Eldora, and Steamboat Rock exchanges (approximately 815 access lines) that it is transferring to Heart of Iowa. The waiver would also allow Heart of Iowa to add the acquired exchanges to its incumbent study area. Heart of Iowa's requested waiver of section 69.3(e)(11) of the Commission's rules would permit Heart of Iowa to begin using NECA as its tariff pool administrator for the acquired exchanges upon consummation of the transaction. Section 69.3(e)(11) states that any changes in common line tariff participation and long term support resulting from a merger or acquisition of telephone properties are to be made effective on the next annual access tariff filing effective date following consummation of the merger or acquisition transaction. Finally, Heart of Iowa's requested waiver of section 69.605(c) of the Commission's rules would permit its continued operation as an average schedule company after the acquisition of the three exchanges from Iowa Telecom. Section 69.605(c) defines an average schedule company as a telephone company that was participating in average schedule settlements on December 1, 1982.

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a non-streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments on the transfer of control application and the waiver requests within 14 days and reply comments within 21 days** of this notice.⁵ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by

⁵ See 47 C.F.R. § 63.52(b).

Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893;
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: twilson@fcc.gov;
- (3) Christi Shewman, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C142, Washington, D.C. 20554; e-mail: christi.shewman@fcc.gov;
- (4) William Dever, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C266, Washington, D.C. 20554; e-mail: william.dever@fcc.gov;
- (5) Christopher Killion, Office of General Counsel, 445 12th Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: ckillion@fcc.gov;
- (6) Gary Seigel, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W. Room 5-A633, Washington, D.C. 20554; e-mail: gary.seigel@fcc.gov.
- (7) Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W. Room 5-B540, Washington, D.C. 20554; e-mail: sheryl.todd@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

For further information regarding the Transfer of Control Application, please contact Tracey Wilson at (202) 418-1394 or Christi Shewman at (202) 418-1686. For further information regarding the Study Area Waiver and the Part 69 Waivers, please contact Gary Seigel at (202) 418-0879.

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